MT LEGISLATIVE HISTORY

Chapter 20 1967

Bill H 39 S _____ Original bill & hist. ___C

H. Committee on Agriculture & Irrigation

Hearing Date(s) Jan 17 ✓C

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Date Out Jan 17 ✓C

S. Committee on Irrigation and Water

Hearing Date(s) Jan 30 ✓C

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Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

Re: House Bill # 37 (Weather Modification)

Mr. Chairman and members of the Committee:

We've probably always had rain-makers in the state---from the Indian Medicine-men; the fast talking hocus-pocus promoters of generations ago; the hopeful prayers of the faithful for the blessings of a good harvest, etc. But now in this age of sophistication we have men of science whose effectiveness in this area must be recognized.

These scientific operators have been and are now in the state but no one officially knows who, when, where or why about them---there is no clearing house informat on on their activities, no registration, no regulation, no control!

House Bill # 37, drawn closely from the Washington state law---requires that these weather modifiers be licensed, have operating permits, keep records of their activities and be financially responsible.

The Bill proposes that the State Water Conservation Board be the supervising agency and the administrator of any federal funds, grants, or other monies made available for this program and research.

The Bill seeks to protect the public interest from any quacks or phony promoters.

The Bill does not require a license or permit for laboratory research by educational or governmental agencies nor does it prevent activities of an emergency nature relating to forest fires, fog, or frost.

The applicant must convince the Board that the operators are competent in the field of meterology.

The LICENSE fee is set at $100; to be renewed at the end of the calendar year.

These conditions being met, the Board issues a permit ONLY after notice of intent is published, financial responsibility established, a public hearing held, and the Board's determination that the public welfare will be served by the granting of a permit.

Re: House Bill # 37 (Weather Modification)

Under the Bill, operating permits shall be issued to cover ONE geographical area and the operation limited to a declared time schedule.

The permit may not be sold or transferred.

The PERMIT fee is suggested to be ~~determined~~ 1½% of the estimated cost of the operation to be determined by the Board from data available to it.

The Board shall require written reports on each operation and also from those doing laboratory research or emergency work having any modifying effect upon the weather.

The Bill provides for a hearing in the event of a license recall, or refusal ~~to renew~~ renew a permit.

The Bill relieves the state, the board, any state official or state employee of any liability or responsibility for any weather modification by any private person or group.

Violation carries the penalty of a misdemeanor.

Gentlemen---we are living in a new age: in the past it has been found right and proper to legislate on water rights, sub-surface water rights, riparian rights, the drilling of wells and NOW under the police power of the state we must see that the rivers of the sky---which scientists say carry more water than all of the rivers of the world---are not experimented with by irresponsible people and that any such effort or manipulation should be under supervision and regulation to protect the best public interest.

I trust you in your wisdom and judgment will see the need for and the merit of this bill and give it your DO PASS recommendation and support.

I shall be happy to try to answer any of your questions, Mr. Chairman.

Rep. Walt Hinsl

At 3:45, Chairman Loman asked if there were any further questions on H.B. No. 90 and there being none the committee moved onto H.R. No. 2. It was explained that H.R. No. 2 was the same as H.J.R. No. 11 with the exception that Joint and Senate would be stricken so that the resolution could be hurried along in order to get it back to Washington. This resolution deals with requesting ACP cost-share assistance for the control of the weed, Dalmation Toadflax, and asking that in Montana it be increased from 50% to 80%.

Representative Harlow spoke on his resolution and there was discussion with questions following which lasted approximately twenty minutes.

Chairman Loman then invited in the proponents of H.B. No. 37, pertaining to control of weather modification activities and designating the State Water Conservation Board as agency of administration.

THE FOLLOWING APPEARED BEFORE THE COMMITTEE ON H.B. NO. 37:

Mr. Alex D. McDermott	State Water Conservation Board
Mr. Wesley A. D'Ewart	Farm Bureau - Montana Water Development
Mr. Fred White	Glacier Canyon Development Association
Rep. Matt Himsl	Sponsor of H.B. No. 37

Representative Himsl read a statement on his bill which is attached.

Discussion and questions followed for approximately twenty minutes. It was felt that since scientists have now progressed far enough so that they are able to obtain decisive results from artificial methods, that it was necessary for the welfare of the public that the persons engaging in such activities be controlled by law.

It was decided to amend H.B. No. 37 to delete the word "daily" in pertaining to newspapers and to change from three weeks to two weeks the amount of time necessary for the announcement of weather modification to be printed in a newspaper prior to any such modification.

Representative Asbjornson moved to amend H.B. No. 37 deleting the word "daily" and changing from three weeks to two weeks the amount of time necessary for announcement of weather modification. It was voted on and passed unanimously.

Representative Asbjornson moved that H.B. No. 37 DO PASS AS AMENDED. The motion was voted on and passed unanimously.

Representative Holtz moved that H.B. No. 90 be referred to the Appropriation Committee with a letter of recommendation. The motion as stated passed unanimously.

Representative Newby moved that H.R. No. 2 DO PASS. The motion carried unanimously.

Representative Giesick moved for adjournment at 4:45.

Ray M. Loman Chairman

January 30, 1967

The Irrigation and Water committee met at 1:00 p.m. in room 404 with Chairman McGowan presiding. Members present were Senators Siderius, Groff, Cotton, Folsom, Turnage and Stein.

HB #37. Dr. Roy E. Huffman, Montana Water Reserve Center, Montana State University, appeared in favor of the bill and recommended amendments to the bill.

Representative Himsl, Chief sponsor of the bill appeared to defend his bill with a prepared statement. This statement is marked Exhibit "A" and found with these minutes.

Ex-Senator Leland Schoonover spoke in favor of this legislation, stating that cloud seeding was used frequently in his area, Lake County, and that the Montana Wildlife Federation, which he represented was "flabbergasted" to find there wasn't any control of this practice.

Mr. Wesley D'Ewart spoke in favor of the bill.

Mr. Alex D. McDermott, State Water Conservation Board, appeared in favor of the bill and submitted a prepared amendment to the bill. He then answered questions and stated that there was a proposed allocation of $75,000,000,000 for the United States to be used for contracts for the next 5 year period. He also stated that Montana must establish some guidelines before other states took over.

At the end of the meeting Senator Siderius made a motion that HB #37 BE CONCURRED IN AS AMENDED, seconded by Senator Turnage.

SB #238. Senator Harry Mitchell, Cascade County, presented an amendment to this bill, stating that the amendment had better language as it was taken from the Recodification Law. He then explained the bill, stating that the bill would give legal recognition to water used for recreation. This water is non-distributive and non-consumptive. He presented several telegrams, letters and newspaper clippings favoring the bill.

Representative Harry T. Northey representing the Western Montana Fish and Game Association appeared in favor of the bill.

Mr. Arthur Whitney of the Montana Fish and Game Commission appeared in favor and submitted a prepared statement, marked exhibit "B" and included with these minutes.

Mr. Jim Posewitz presented a statement marked exhibit "C" included with the minutes.

Ex-Senator Schoonover, representing the National Wildlife Federation, read his statement marked exhibit "D" with these minutes.

Rep Venial: Exhibit "A" HB 37

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Rep. Matt Himsl

provide the department with such information as will assist it in carrying out the purposes of this act.

Cooperate with other agencies.

The department shall assist and cooperate with other state agencies and officials, with official organizations of elected officials in the state, with local governments and officials, and with federal agencies and officials, in carrying out the functions and duties of the department.

Consultation —hearings.

It may consult with private groups and individuals, and if the department deems it desirable, hold public hearings to obtain information for the purposes of carrying out this act.

Administrators—appointment of personnel.

Section 7. Each division or section of the department may be under the management of an administrator, responsible to the chairman of the commission, and such administrators and all subordinate personnel of the department shall be appointed by the chairman of the commission, with the consent of the commission.

Annual report.

Section 8. The commission shall prepare an annual report of its activities for the governor and the legislature and may issue and disseminate special reports concerning any phase of its work.

State planning board abolished.

Section 9. The state planning board is abolished. All records, property and moneys of the state planning board are transferred to the planning and economic development commission.

Repealing clause.

Section 10. Sections 89-301, 89-302, 89-303, 89-304, 89-305, 89-306, 89-307, 89-308, and 89-309, R.C.M. 1947 are repealed.

Approved: February 6, 1967.

CHAPTER 20

An Act to Control Weather Modification Activities and Designating the State Water Conservation Board as the Agency to Administer This Act.

Be it enacted by the Legislative Assembly of the State of Montana:

"Weather modification and control."

Section 1. As used in this act unless the context clearly indicates otherwise "weather modification and control" means changing or controlling, or attempting to

change or control, by artificial methods, the natural development of any or all atmospheric cloud forms or precipitation forms which occur in the troposphere.

Water conservation board to administer—compensation—expenses.

Section 2. The state water conservation board, hereafter referred to as the "board," is the state agency responsible for administration of this act. Members of the board shall receive no compensation for the performance of their duties under the provisions of this act but shall be reimbursed for expenses necessarily incurred.

Powers of board.

Section 3. In addition to any other acts authorized by law the board may:

Advisory committees.

(1) establish advisory committees to advise with and make recommendations to the board concerning legislation, policies, administration, research, and other matters;

Materials.

(2) acquire materials, equipment and facilities as are necessary to perform its duties under this act;

Administer funds.

(3) receive any funds which may be offered or become available from federal grants or appropriations, private gifts, donations, bequests, or any other source and unless their use is restricted, may expend the funds for the administration of this act.

Licensing.

Section 4. No person shall engage in activities for weather modification and control except under, and in accordance with, a license and a permit issued by the board authorizing such activities.

Applications—exemptions.

Section 5. The board shall review all applications for weather modification activity, and may provide by rule for exempting from the license and permit fees:

(1) research, development, and experiments by state and federal agencies, institutions of higher learning and bona fide nonprofit research organizations and their agents;

(2) laboratory research and experiments;

(3) activities of an emergency character for protection against fire, frost, sleet, or fog; and

(4) activities normally engaged in for purposes other than those of inducing, increasing, decreasing, or preventing precipitation or hail.

Licenses—criteria for issuance.

Section 6. The license to engage in activities for weather modification and control shall be issued, in accordance with procedures and subject to conditions the board may by rule establish to effectuate the provisions of this act, to applicants who demonstrate competence in the field of meteorology to the satisfaction of the board. If the applicant is an organization, these requirements must be met by the individual who will be in charge of the operation for the applicant.

Term of license.

Section 7. The license shall be issued for a period to expire at the end of the calendar year in which it is issued and, if the licensee possesses the qualifications necessary for the issuance of a new license, shall upon application be renewed at the expiration of the period.

License fee.

Section 8. A license shall be issued or renewed only upon the payment to the board of one hundred dollars ($100) for the license or renewal.

Permits—conditions.

Section 9. The permits shall be issued in accordance with procedures and subject to conditions the board may by rule establish to effectuate the provisions of this act, only:

(1) if the applicant is licensed pursuant to this act;

(2) if sufficient notice of intention is published and proof of publication is filed as required in section 13 of this act;

(3) if an applicant furnishes proof of financial responsibility in an amount to be determined by the board as required in section 14 of this act;

(4) if the fee for the permit is paid as required in section 15 of this act;

(5) if the weather modification and control activities to be conducted are determined by the board to be for the general welfare and the public good;

(6) if the board has held an open public hearing in the area to be affected as to such issuance.

Separate permits —"operation."

Section 10. Separate permits shall be issued for each operation. "Operation" means the performance of weather modification and control activities entered into for the purpose of producing or attempting to produce, a certain modifying effect within one (1) geographical

area over one continuing time interval not exceeding one (1) year.

Notice of intention.

Section 11. Prior to undertaking any weather modification and control activities, the applicant for a permit shall file with the board, and also have published, a notice of intention. If a permit is issued, the holder of the permit shall confine his activities to the time and area limits set forth in the notice of intention, unless modified by the board. His activities shall conform to any conditions imposed by the board. The permit may not be sold or transferred.

Permit not transferable.

Notice of intention to state.

Section 12. The notice of intention shall set forth at least the following:

(1) the name and address of the applicant;

(2) the nature, purpose, and objective of the intended operation and the person or organization on whose behalf it is to be conducted;

(3) the area in which, and the approximate time during which, the operation will be conducted;

(4) the area which is intended to be affected by the operation;

(5) the materials and methods to be used in conducting the operation.

Publication of notice of intention.

Section 13. (1) The applicant shall have notice of intention, or that portion thereof including the items specified in section 12 of this act, published at least once a week for two (2) consecutive weeks in a newspaper having a general circulation and published within any county in which the operation is to be conducted and in which the affected area is located, or, if the operation is to be conducted in more than one (1) county or if the affected area is located in more than one (1) county or is located in a county other than the one in which the operation is to be conducted, then in newspapers having a general circulation and published within each of the counties.

More than one county.

Proof of publication.

(2) Proof of publication, made in the manner provided by law, shall be filed by the applicant with the board sooner than the sixteenth day after the date of the last publication of the notice.

Proof of financial responsibility.

Section 14. Proof of financial responsibility may be furnished by an applicant by his showing, to the satisfaction of the board, ability to respond in damages for liability which might reasonably be attached to, or result from, his weather modification and control activities.

Permit fees—rate—payment schedule.

Section 15. The fee to be paid by each applicant for a permit shall be equivalent to one and one-half percent (1½%) of the estimated cost of such operation, the estimated cost to be computed by the board from the evidence available to it. The fee is due and payable to the board as of the date of issuance of the permit; however, if the applicant is able to give satisfactory security for the payment of the balance he may be permitted to commence the operation, and a permit may be issued therefor, upon the payment of not less than fifty percent (50%) of the fee. The balance due shall be paid within three (3) months from the date of termination of the operation as prescribed in the permit.

Special account.

Section 16. There is established an account in the agency fund to be known as the "weather modification board account." All license and permit fees paid to the board shall be deposited in this account and used to pay the expenses of administering this act.

Record of operations—to show.

Section 17. Every licensee shall keep and maintain a record of all operations conducted by him under his license and each permit, showing:

(1) the method employed;

(2) type of equipment used;

(3) kinds and amounts of material used;

(4) times and places of operation of the equipment;

(5) names and addresses of all individuals participating or assisting in the operation;

(6) any other general information as the board may require.

Written reports of operations.

Section 18. The board shall require written reports, in a manner as it provides, of each operation for which a permit is issued. The board shall also require reports from any organization that is exempt from license and permit requirements as provided in section 5 of this act.

Public records.

Section 19. The records and reports in the custody of the board shall be open for public examination.

Notice and hearing on licenses.

Section 20. After notice to the licensee and a reasonable opportunity for a hearing, the board may modify, suspend, revoke, or refuse to renew, any license or permit issued if it appears that the licensee no longer possesses the qualifications necessary or if it appears that the licensee has violated any of the provisions of this act; or in the case of a modification, that it is necessary for the protection of the health or the property of any person.

State exempt from liability.

Section 21. Nothing in this act shall be construed to impose or accept any liability or responsibility on the part of the state, the board, or any state officials or employees for any weather modification and control activities of any private person or group.

Violation is misdemeanor—each day separate offense.

Section 22. A person violating any provision of this act is guilty of a misdemeanor, and a continuing violation is punishable as a separate offense for each day during which it occurs.

Severability clause.

Section 23. It is the intent of the legislative assembly that if a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Approved: February 7, 1967.

CHAPTER 21

An Act Amending Section 67-2211, R.C.M. 1947, Requiring Reports of Abandoned Property Other Than Reports From Banking or Financial Organizations, Cooperatives and Life Insurance Corporations, to Be Submitted to the State Treasurer Every Three (3) Years; Providing That the State Treasurer May Request Reports Each Year, and Requiring the State Treasurer to Furnish Forms for This Report.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 67-2211, R.C.M. 1947, is amended to read as follows: